

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-01389-CKK**

SNYDER v. U.S. DEPARTMENT OF JUSTICE et al
Assigned to: Judge Colleen Kollar-Kotelly
Demand: \$0
Cause: 05:552 Freedom of Information Act

Date Filed: 06/12/2018
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

DAVID L. SNYDER
*in his capacity as counsel for Andrew G.
McCabe*

represented by **David Lewis Snyder**
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ATTORNEY TO BE NOTICED

V.

Defendant

U.S. DEPARTMENT OF JUSTICE

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Defendant

**U.S. DEPARTMENT OF JUSTICE
OFFICE OF THE INSPECTOR
GENERAL**

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LEAD ATTORNEY
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Garrett Joseph Coyle
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Defendant

**FEDERAL BUREAU OF
INVESTIGATION**

represented by **Justin Michael Sandberg**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Garrett Joseph Coyle

(See above for address)
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
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| 06/12/2018 | <u>1</u> | COMPLAINT against All Defendants (Filing fee \$ 400 receipt number 0090-5530994) filed by DAVID L SNYDER. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Summons, # <u>4</u> Summons)(Snyder, David) (Entered: 06/12/2018) |
| 06/13/2018 | <u>2</u> | LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by DAVID L SNYDER (Snyder, David) (Entered: 06/13/2018) |
| 06/14/2018 | | Case Assigned to Judge Colleen Kollar-Kotelly. (zsb) (Entered: 06/14/2018) |
| 06/15/2018 | <u>3</u> | REQUEST FOR SUMMONS TO ISSUE re <u>1</u> Complaint filed by DAVID L. SNYDER. Related document: <u>1</u> Complaint filed by DAVID L. SNYDER. (Attachments: # <u>1</u> Summons, # <u>2</u> Summons)(Snyder, David) (Entered: 06/15/2018) |
| 06/18/2018 | <u>4</u> | SUMMONS (3) Issued Electronically as to FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL. (Attachment: # <u>1</u> Notice and Consent)(zsb) (Entered: 06/18/2018) |
| 06/21/2018 | <u>5</u> | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. DEPARTMENT OF JUSTICE served on 6/18/2018 (Snyder, David) (Entered: 06/21/2018) |
| 06/21/2018 | <u>6</u> | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. FEDERAL BUREAU OF INVESTIGATION served on 6/18/2018 (Snyder, David) (Entered: 06/21/2018) |
| 06/21/2018 | <u>7</u> | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL served on 6/18/2018 (Snyder, David) (Entered: 06/21/2018) |
| 06/21/2018 | <u>8</u> | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 6/19/2018. Answer due for ALL FEDERAL DEFENDANTS by 7/19/2018. (Snyder, David) (Entered: 06/21/2018) |
| 07/13/2018 | <u>9</u> | SEALED MOTION FOR LEAVE TO FILE DOCUMENT UNDER SEAL filed by DAVID L. SNYDER (This document is SEALED and only available to authorized persons.) (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Declaration, # <u>3</u> Text of Proposed Order)(Snyder, David) (Entered: 07/13/2018) |
| 07/16/2018 | <u>10</u> | SEALED ORDER GRANTING re <u>9</u> SEALED MOTION FOR LEAVE TO FILE DOCUMENT UNDER SEAL filed by DAVID L. SNYDER (This document is SEALED and only available to authorized persons.) filed by DAVID L. SNYDER.(This document is SEALED and only available to authorized persons.)Signed by Judge Colleen Kollar-Kotelly on 7/16/18.(zdot) (Entered: 07/16/2018) |
| 07/17/2018 | <u>11</u> | Consent MOTION for Extension of Time to File Answer re <u>1</u> Complaint <i>or to Otherwise Respond to the Complaint</i> by FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL (Attachments: # <u>1</u> Text of Proposed Order)(Sandberg, Justin) (Entered: 07/17/2018) |
| 07/18/2018 | | MINUTE ORDER. The Court is in receipt of Defendants' <u>11</u> Consent Motion for Extension of Time to Respond to Complaint. Defendants request an additional week to respond to Plaintiff's Complaint because defense counsel needs additional time to coordinate with agency counsel. This is the first request for an extension of this deadline, and Plaintiff consents. Defendants' Motion is GRANTED. Defendants shall respond to Plaintiff's Complaint by no later than JULY 26, 2018. Signed by Judge Colleen Kollar-Kotelly on 7/18/2018. (lcckk3) (Entered: 07/18/2018) |

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| 07/18/2018 | | Set/Reset Deadlines: Answer to Complaint due by 7/26/2018. (dot) (Entered: 07/18/2018) |
| 07/26/2018 | <u>12</u> | ANSWER to Complaint by FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL.(Coyle, Garrett) (Entered: 07/26/2018) |
| 07/26/2018 | <u>13</u> | ORDER. The parties shall file a Joint Status Report by no later than AUGUST 16, 2018. Signed by Judge Colleen Kollar-Kotelly on 7/26/2018. (lcckk3) (Entered: 07/26/2018) |
| 07/26/2018 | | Set/Reset Deadlines: Joint Status Report due by 8/16/2018. (dot) (Entered: 07/27/2018) |
| 08/16/2018 | <u>14</u> | Joint STATUS REPORT by FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL. (Sandberg, Justin) (Entered: 08/16/2018) |
| 08/17/2018 | | MINUTE ORDER. The Court is in receipt of the parties' <u>14</u> Joint Status Report. The parties represent that they are in the process of conferring regarding Plaintiff's FOIA request and Defendants' production schedule, and ask to be allowed to submit an additional Joint Status Report in one week. The parties are ORDERED to file a further Joint Status Report, updating the Court on the status of Defendants' processing of Plaintiff's FOIA request by no later than AUGUST 23, 2018. Signed by Judge Colleen Kollar-Kotelly on 8/17/2018. (lcckk3) (Entered: 08/17/2018) |
| 08/17/2018 | | Set/Reset Deadlines: Joint Status Report due by 8/23/2018, updating the Court on the status of Defendants' processing of Plaintiff's FOIA request. (dot) (Entered: 08/22/2018) |
| 08/23/2018 | <u>15</u> | Joint STATUS REPORT by FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL. (Sandberg, Justin) (Entered: 08/23/2018) |
| 08/24/2018 | | MINUTE ORDER. The Court is in receipt of the parties' <u>15</u> Joint Status Report. The parties represent that they are in the process of conferring about the status of this case, and that a new issue "came to light yesterday for the first time." To be able to properly address this issue, the parties ask to be allowed to submit an additional Joint Status Report by September 4, 2018. The parties are ORDERED to file a further Joint Status Report, updating the Court on the status of Defendants' processing of Plaintiff's FOIA request by no later than SEPTEMBER 4, 2018. Signed by Judge Colleen Kollar-Kotelly on 8/24/2018. (lcckk3) (Entered: 08/24/2018) |
| 08/24/2018 | | Set/Reset Deadlines: Joint Status Report due by 9/4/2018, updating the Court on the status of Defendants' processing of Plaintiff's FOIA request.(dot) (Entered: 08/24/2018) |
| 09/04/2018 | <u>16</u> | Joint STATUS REPORT by FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL. (Sandberg, Justin) (Entered: 09/04/2018) |
| 09/04/2018 | | MINUTE ORDER. The Court is in receipt of the parties' <u>16</u> Joint Status Report. The parties represent that the OIG has released a partially redacted copy of the O&R Manual, a copy of the list of appendices to the O&R Manual with minor redactions, and the first five appendices to the O&R Manual without redactions. These productions have totaled 171 pages. The remaining request, with some tentative narrowing, encompasses about 850 more pages to be processed. The parties have agreed on a schedule for processing the remaining pages, with OIG processing 100 pages-per-month. OIG will produce non-exempt documents or portions of documents on the last work day of every month, beginning September 28, 2018, until the processing is complete.Despite this progress, Defendants request to move for summary judgment as to the FOIA claims against the FBI on October 5, 2018. The Court will not permit Defendants to file a motion for summary judgement absent a further showing that it is not feasible to simultaneously continue with FOIA claims against the OIG and the FBI. The Court is disinclined to permit a "bifurcation" of Plaintiff's FOIA claims against the OIG and against the FBI. Such bifurcation is not in the interest of the Court's efficiency as it may eventually result in two rounds of summary judgment briefing. The parties are ORDERED to submit a further Joint Status Report, updating |

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| | | the Court on the status of Defendants' processing of Plaintiff's FOIA request, by no later than OCTOBER 5, 2018. Signed by Judge Colleen Kollar-Kotelly on 9/04/2018. (lcckk3) (Entered: 09/04/2018) |
| 09/04/2018 | | Set/Reset Deadlines: Joint Status Report due by 10/5/2018, updating the Court on the status of Defendants' processing of Plaintiff's FOIA request. (dot) (Entered: 09/06/2018) |
| 10/05/2018 | <u>17</u> | Joint STATUS REPORT by FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL. (Sandberg, Justin) (Entered: 10/05/2018) |
| 10/10/2018 | | MINUTE ORDER. On further consideration of the parties' <u>17</u> Joint Status Report as clarified by email, the court ORDERS the parties to file summary judgment briefing on Plaintiff's FOIA request to the FBI. According to the parties, there is a disagreement "about whether Plaintiff has filed a proper FOIA request under 5 U.S.C. § 522(a)(2)." ECF <u>16</u> , 1. Because of this disagreement, the FBI has refused to release any documents to Plaintiff. Whether or not Plaintiff filed a proper FOIA request under 5 U.S.C. § 522(a)(2) is a discrete legal issue which can be resolved by Summary Judgment without affecting Plaintiff's FOIA request to the DOJ, as the DOJ is still in the process of reviewing and disclosing documents. The Court ORDERS parties to file cross-motions for summary judgment by OCTOBER 24, 2018. Parties are further ORDERED to file their Oppositions by NOVEMBER 3, 2018, and their Replies by NOVEMBER 10, 2018. While the parties brief this issue and the Court considers this issue, the DOJ should continue responding to Plaintiff's FOIA request. Signed by Judge Colleen Kollar-Kotelly on 10/10/2018. (lcckk3) (Entered: 10/10/2018) |
| 10/10/2018 | | Set/Reset Deadlines: Parties' Cross Motions due by 10/24/2018. Response to Cross Motions due by 11/3/2018. Replies to Cross Motions due by 11/10/2018. (dot) (Entered: 10/11/2018) |
| 10/22/2018 | <u>18</u> | Unopposed MOTION for Order by DAVID L. SNYDER (Snyder, David) (Entered: 10/22/2018) |
| 10/22/2018 | | MINUTE ORDER. The Court is in receipt of Plaintiff's <u>18</u> Unopposed Motion for Order. On October 10, 2018, the Court issued a Minute Order, ordering Plaintiff and Defendant to file cross-motions for summary judgment on Plaintiff's FOIA claims against the FBI. Since the Court issued that Minute Order, Plaintiff reports that he now believes that he may be able to obtain the requested information from publicly available sources, thereby obviating the need for summary judgment cross-motions. Accordingly, Plaintiff requests that the Court stay the current briefing schedule for cross-motions for summary judgment and order the parties to file a Joint Status Report by November 29, 2018, reporting whether cross-motions for summary judgment relating to Plaintiff's claims against the FBI remain necessary. The Court GRANTS Plaintiff's Motion. The Court ORDERS the briefing schedule set forth in the Court's October 10, 2018 Minute Order STAYED and the current deadlines VACATED. The Court further ORDERS the parties to file a Joint Status report informing the Court on whether or not cross-motions for summary judgment regarding Plaintiff's claims against the FBI are still needed by NOVEMBER 29, 2018. Signed by Judge Colleen Kollar-Kotelly on 10-22-2018. (lcckk3) (Entered: 10/22/2018) |
| 11/06/2018 | <u>19</u> | NOTICE of Change of Address by Justin Michael Sandberg (Sandberg, Justin) (Entered: 11/06/2018) |
| 11/29/2018 | <u>20</u> | Joint STATUS REPORT by FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL. (Sandberg, Justin) (Entered: 11/29/2018) |
| 11/30/2018 | | MINUTE ORDER. The Court is in receipt of the parties' <u>20</u> Joint Status Report. On October 10, 2018, this Court granted Plaintiff's request for leave to bifurcate summary judgment briefing in this FOIA case, permitting summary judgment briefing as to Defendant FBI while Defendant OIG continued to process documents related to Plaintiff's FOIA request. But, on October 22, 2018, at Plaintiff's request, the Court stayed its October 10, 2018 Order, as Plaintiff indicated that he may be able to get the requested information from publicly available sources, obviating the need for summary judgment motions. In this Joint Status Report, the parties indicate that, at this time, they do not intend to file cross motions for summary judgment pertaining to Plaintiff's |

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| | | FOIA claims against the FBI. Accordingly, the Court VACATES the motions schedule. If cross motions for summary judgment are required, the parties will file them in conjunction with any summary judgment briefing on Plaintiff's claims against the OIG. The parties are ORDERED to file another Joint Status Report by JANUARY 7, 2019, updating the Court on the status of Plaintiff's FOIA requests to both the FBI and the OIG. Signed by Judge Colleen Kollar-Kotelly on 11/30/2018. (lcckk3) (Entered: 11/30/2018) |
| 12/26/2018 | <u>21</u> | MOTION to Stay by FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL (Attachments: # <u>1</u> Text of Proposed Order)(Sandberg, Justin) (Entered: 12/26/2018) |
| 01/02/2019 | | MINUTE ORDER. The Court is in receipt of Defendants' <u>21</u> Motion for a Stay of Proceedings in Light of Lapse of Appropriations. According to the Court's November 30, 2018 Minute Order, the parties are ordered to file a Joint Status Report by January 7, 2019 informing the Court on the status of Plaintiff's FOIA requests to the FBI and the OIG. Defendants request a stay on the deadline for filing the Joint Status Report due to the expiration of the appropriations act that had been funding the Department of Justice. Defendants indicated that Plaintiff opposes Defendants' motion. The Court GRANTS Defendants' motion. Absent an appropriation, Department of Justice lawyers and officials, including those responsible for processing the documents potentially responsive to Plaintiff's FOIA request, are prohibited from working except in limited circumstances which do not apply to this case. The Court ORDERS the parties to file their Joint Status Report three business days after the day on which Congress restores appropriations to the Department of Justice. Signed by Judge Colleen Kollar-Kotelly on 1-2-2019. (lcckk3) (Entered: 01/02/2019) |
| 01/02/2019 | | Case STAYED. (kt) (Entered: 01/02/2019) |
| 01/28/2019 | <u>22</u> | NOTICE of Restoration of Appropriations by FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL (Sandberg, Justin) (Entered: 01/28/2019) |
| 01/30/2019 | <u>23</u> | Joint STATUS REPORT by FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL. (Sandberg, Justin) (Entered: 01/30/2019) |
| 01/31/2019 | | MINUTE ORDER. The Court is in receipt of the parties' <u>23</u> Joint Status Report. Defendant reports that the OIG made its last production to Plaintiff on December 21, 2018. That same day, the appropriations to the Department of Justice lapsed, and on January 2, 2019, the Court granted a stay in this case. During the lapse in appropriations, the OIG was unable to process documents related to Plaintiff's FOIA request. The OIG resumed processing Plaintiff's FOIA request with the restoration of appropriations on January 25, 2019. Under the parties' agreement, Defendant processes 100 pages of Plaintiffs' request monthly and makes productions on the last day of every month. Defendant's January production was due January 31, 2019. At issue is whether, due to the lapse in appropriations and the stay, Defendant should make its "January" document production on February 28, 2019 or on February 15, 2019. Defendant argues that it should make its "January" production on February 28, 2019. Defendant contends that it should have 35 days (the number of days that the Department lacked appropriations) after the production was due on January 31, 2019 to make the next production. Defendant's calculation would make the production due March 6, 2019; but, Defendant is willing to make the production on February 28, 2019. Plaintiff argues that, in the month of January, the Department lacked appropriations for only 17 business days. Accordingly, Plaintiff contends that Defendant's deadline to make "January" productions should be extended by only 17 days, which would make the production due on February 15, 2019. The Court ORDERS Defendant to make its next document production on FEBRUARY 28, 2019. From December 21, 2018 to January 25, 2019, Defendant was unable to process Plaintiff's FOIA request due to a lack of appropriations. The lack of appropriations lasted 35 days. Accordingly, the Court finds it reasonable that Defendant be given 28 days after Defendant's production was due to make its January production. Following that production, Defendant should continue with the production schedule of processing 100 pages monthly and producing documents to Plaintiff on the last day of each |

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| | | month. The parties are ORDERED to file a Joint Status Report by 5:00 p.m. on MARCH 15, 2019, informing the Court on the status of Plaintiff's FOIA request. Signed by Judge Colleen Kollar-Kotelly on 1/31/2019. (lcckk3) (Entered: 01/31/2019) |
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